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10/725,101	12/02/2003	Yingfai Cheung	USP2135A-YC	1752

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EXAMINER

SAKRAN, VICTOR N

ART UNIT PAPER NUMBER

3677

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/725,101

Applicant(s)

CHEUNG, YINGFAI

Examiner

VICTOR N SAKRAN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

Claims 26-28, are objected to because of the following informalities:
Since the term "said locker slot" has no proper antecedent basis in said claims or the parent claim from they are depend. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6 and 8-17, are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Acker U. S. Patent No. 5,581,850; see Figures 1-5; column 2, lines 3-11, 24-3161-65; claims 1, 4 and 5.

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Claims 1-8, 11, and 13, are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Chisholm U. S. Patent No. 5,189,761; see Figures 1-4; column 2, lines 55-68, and column 3, lines 34-44.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

- 1. Determining the scope and contents of the prior art.**
- 2. Ascertaining the differences between the prior art and the claims at issue.**
- 3. Resolving the level of ordinary skill in the pertinent art.**
- 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.**

Claims 1, 2, 18-20 and 23, are rejected under 35 U.S.C. 103(a) as being unpatentable over Acker '850 in view of Moran et al U. S. Patent No. 1,810,027. Acker discloses Applicants claimed combination of an adjustable and detachable binding device comprising a head end and a tail end, wherein said tail end is provided with a plurality of spaced apart locking holders and a slot formed at the head end for detachably engage with the locking holders to form a binding loop; see Figures 1-5; column 2, lines 3-11, 24-3161-65; claims 1, 4 and 5, except that the reference to Acker does not form the locking teeth by an elongated slit inclinedly cut into the tail portion of its binding member. Moran et al teaches the use of binding member having a tail end and a head end, wherein said tail having a plurality of teeth formed by an elongated slit inclinedly cut into said tail portion of its elongated binding member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the locking teeth in Acker by an elongated slit inclinedly cut into its tail portion in the manner taught, disclosed and suggested by Moran et al , especially, since such modification involves only routine skill in the art.

Claims 1, 2, 6, 22, and 24, are rejected under 35 U.S.C. 103(a) as being unpatentable over Chisholm '761 in view of Moran et al '027. Chisholm discloses Applicants claimed combination of an adjustable and detachable binding device comprising a head end and a tail end, wherein said tail end is provided with a plurality of spaced apart locking holders and a locker slot

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having a longitudinal engaging portion formed at the head end for detachably engage with the locking holders of said tail portion to form a binding loop; see Figures 1-4; column 2, lines 55-68, and column 3, lines 34-44, except that the reference to Chisholm does not form the locking teeth by an elongated slit inclinedly cut into the tail portion of its binding member. Moran et al teaches the use of binding member having a tail end and a head end, wherein said tail having a plurality of teeth formed by an elongated slit inclinedly cut into said tail portion of its elongated binding member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the locking teeth in Chisholm by an elongated slit inclinedly cut into its tail portion in the manner taught, disclosed and suggested by Moran et al , especially, since such modification involves only routine skill in the art.

Claims 1, 2, 26-28, are rejected under 35 U.S.C. 103(a) as being unpatentable over Acker '850 in view of Steinborn U> S. Patent No. 3,403,430 and Chisholm '761.

Acker discloses Applicants claimed combination of an adjustable and detachable binding device comprising a head end and a tail end, wherein said tail end is provided with a plurality of spaced apart locking holders and a slot formed at the head end for detachably engage with the locking holders to form a binding loop; see Figures 1-5; column 2, lines 3-11, 24-3161-65; claims 1, 4 and 5, except that the locking teeth are parallelly extending to the longitudinal edge of the tail

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portion of the binding member. Steinborn teaches the use of a plurality of locking teeth which are disposed parallel to the longitudinal edge of the tail portion of its binding member; see Figures 2, 3; column 2, lines 18-29. Chisholm teaches the use of a locking slot having a triangular shape formed at head end of its binding member; see Figures 2-4. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the shape and the direction of the locking teeth such as to extend parallel to the longitudinal edge of its binding member along with the change of the its locking slot as a triangular shape locking slot in the manner taught, disclosed and suggested by Steinborn and Chisholm, especially, since the shape of the locking teeth is considered to be no more than a matter of design choice obvious to one having ordinary skill in the art at the time the invention was made.

Moreover, the particular shape of the of the housing along with the various elements is considered to be no more than a matter of design choice obvious to one having ordinary skill within the art at the time the invention was made, especially, since it has been held that the particular change in shape of an element in a prior art device is such a change considered no more than an obvious matter of design choice to one having ordinary skill within in the art. See *In Re Dailey*, 357 F. 2d 669, 149 USPQ 47 (CCPA 1954).

Furthermore, Applicant is reminded that in considering the disclosure of a reference, it is proper to take into account not only specific teaching of the reference but also the inferences which one skilled in the art would reasonably be

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expected to draw therefrom; see *In re Preda*, 401 F.2d 825, 826, 159 USPQ 342,344 (CCPA1968).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 29-31, are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Severson U. S. Patent No. 6,523,229; see Figures 1-7; column 2, lines 51-59; column 3, lines 4-14.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to

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be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1 and 32, rejected under 35 U.S.C. 103(a) as being unpatentable over Severson '229 in view of Massey U. S. Patent No. 4,274,612.

Severson the general combination claimed of a binding member comprising a head end and a tail end, said tail end is provided with a plurality of locking holes, and the head end comprising a loop locker defining a retaining hole, said tail end is adapted to be folded overlap the head end portion for securing said tail end with one of its locking holes with the retaining hole of said head end of the elongated binding member; see Figures 1-7; column 2, lines 51-59; column 3, lines 4-14, except that the head end is further provided with hole locker detachably and slidably passing through retaining hole and a locking hole for lock the head portion of its binding member. Schulenberg U. S. Patent No. 3,233,801 who teaches the use of elongated binding member having a head end

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and a tail end, wherein said head end is further provided with hole locker detachable and slidably passing through retaining hole for lock the head portion of its binding member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to further provide the binding member in Severson with a hole locker detachably and slidably passing through its retaining hole for lock the head portion of its binding member in the manner taught, disclosed and suggested by Schulenberg, especially, since such modification involves only routine skill in the art.

Furthermore, the use of a retaining member for securing the head end of a binding member is conventional and well known within the art.

Furthermore, the particular location and/or the arrangement selected of an elements is also considered to be no more than an obvious matter of design choice to one having ordinary skill within the art, especially, since it has been held that rearranging pa an invention is involves only routine skill in the art. See In Re Japikse, 86 USPQ 70.

The use of a plurality of references is justified since some of the limitations to which they are applied are independent of each other; see Ex Parte Fine 1927 C. D. 84; O. G. 511.

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant's attention is directed to the art cited herein, as showing structure related to Applicant's disclosed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTOR N SAKRAN whose telephone number is 703-308-2224. The examiner can normally be reached on 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. swann can be reached on 703-308-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 29, 2004


VICTOR N SAKRAN
Primary Examiner
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